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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.    | CONFIRMATION NO. |
|--|-------------|----------------------|------------------------|------------------|
| 10/799,349   | 03/12/2004  | David Hoerl          | 105479-58428 (644-053) | 6376             |
| 26345  | 7590        | 05/19/2008           | EXAMINER               |                  |
| GIBBONS P.C.<br>ONE GATEWAY CENTER<br>NEWARK, NJ 07102 |             |                      | PIZIALI, JEFFREY J     |                  |
|  |             |                      | ART UNIT               | PAPER NUMBER     |
|  |             |                      | 2629                   |                  |
|  |             |                      | NOTIFICATION DATE      | DELIVERY MODE    |
|  |             |                      | 05/19/2008             | ELECTRONIC       |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

thibbits@gibbonslaw.com  
abriggs@gibbonslaw.com  
IPDocket@gibbonslaw.com

|   |                               |                              |
|---|-------------------------------|------------------------------|
| <b>Notice of Non-Compliant<br/>Amendment (37 CFR 1.121)</b> | Application No.<br>10/799,349 | Applicant(s)<br>HOERL, DAVID |
|   | Examiner<br>Jeff Piziali      | Art Unit<br>2629             |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 13 November 2007 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

**THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:**

- 1. Amendments to the specification:
  - A. Amended paragraph(s) do not include markings.
  - B. New paragraph(s) should not be underlined.
  - C. Other \_\_\_\_\_.
- 2. Abstract:
  - A. Not presented on a separate sheet. 37 CFR 1.72.
  - B. Other \_\_\_\_\_.
- 3. Amendments to the drawings:
  - A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - C. Other \_\_\_\_\_.
- 4. Amendments to the claims:
  - A. A complete listing of all of the claims is not present.
  - B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - D. The claims of this amendment paper have not been presented in ascending numerical order.
  - E. Other: See Continuation Sheet.
- 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) **only** if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Jeff Piziali/

Primary Examiner, AU 2629

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Legal Instruments Examiner (LIE), if applicable

Telephone No.



Continuation of 4(e) Other:

The Applicant is thanked for the Amendment filed 13 November 2007. However, at least one non-compliant amendment has been discovered in the aforementioned response, requiring attention before examination may continue.

C.F.R. § 1.121(c)(2) requires, "All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of 'currently amended,' and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived."

The Amendment filed 13 November 2007 improperly provides the "Currently Amended" status identifier for claim 26, without providing markings to indicate the changes that have been made relative to the immediate prior version of the claim (e.g., see Page 8 of the Amendment filed 13 November 2007).

By such reasoning, this Notice of Non-Compliance is deemed necessary and proper at this time.

Please note: The amendments have not been checked to the extent necessary to determine the presence of all possible non-compliance errors. If additional issues of non-compliance are discovered at the time of a subsequent amendment, yet another Notice of Non-Compliant Amendment will be necessitated. Applicants' cooperation is requested in correcting any other errors of which applicants may become aware.

/Jeff Piziali/  
Primary Examiner, Art Unit 2629  
13 May 2008